



USCA DOCKET # (IF KNOWN)

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT CIVIL APPEALS DOCKETING STATEMENT

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

TITLE IN FULL: JOHN DOE #1; JOHN DOE #2; and PROTECT MARRIAGE WASHINGTON, Plaintiffs, v. SAM REED, Secretary of State, and BRENDA GALARZA, Public Records Officer, Defendants.	DISTRICT: Western	JUDGE: Benjamin H. Settle
	DISTRICT COURT NUMBER: 3:09-cv-05456-BHS	
	DATE NOTICE OF APPEAL FILED: September 11, 2009	IS THIS A CROSS APPEAL? <input type="checkbox"/> YES
	IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY): 	
BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW: See Attached		
PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL: See Attached		
PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS): 		
DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING: <input type="checkbox"/> Possibility of Settlement <input type="checkbox"/> Likelihood that intervening precedent will control outcome of appeal <input checked="" type="checkbox"/> Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify) Motion to stay the preliminary injunction or, in the alternative, expedite the appeal <input type="checkbox"/> Any other information relevant to the inclusion of this case in the Mediation Program <input type="checkbox"/> Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges		

LOWER COURT INFORMATION			
JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY): <div style="border: 1px solid black; height: 100px; width: 100%; margin-top: 5px;"></div>	<input type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input type="checkbox"/> INTERLOCUTORY DECISION <input checked="" type="checkbox"/> APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <div style="border: 1px solid black; height: 30px; width: 100%; margin-top: 5px;"></div> <input type="checkbox"/> OTHER (SPECIFY): <div style="border: 1px solid black; height: 30px; width: 100%; margin-top: 5px;"></div>	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input type="checkbox"/> DISMISSAL/MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input checked="" type="checkbox"/> OTHER (SPECIFY): <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">preliminary injunction</div>	<input type="checkbox"/> DAMAGES: SOUGHT \$ <div style="border: 1px solid black; width: 80px; height: 20px; display: inline-block;"></div> AWARDED \$ <div style="border: 1px solid black; width: 80px; height: 20px; display: inline-block;"></div> <input checked="" type="checkbox"/> INJUNCTIONS: <input checked="" type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ <div style="border: 1px solid black; width: 80px; height: 20px; display: inline-block;"></div> AWARDED \$ <div style="border: 1px solid black; width: 80px; height: 20px; display: inline-block;"></div> <input type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$ <div style="border: 1px solid black; width: 80px; height: 20px; display: inline-block;"></div>

CERTIFICATION OF COUNSEL**I CERTIFY THAT:**

1. COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED.
2. A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9TH CIR. RULE 3-2).
3. A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
4. I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.

Signature

9/11/09

Date**COUNSEL WHO COMPLETED THIS FORM**

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****THIS DOCUMENT SHOULD BE FILED IN DISTRICT COURT WITH THE NOTICE OF APPEAL. ****
****IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS. ****

BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW

Under the Washington State Constitution, a referendum may be ordered on a bill passed by the legislature, if a petition signed by a constitutionally specified percentage of legal voters is filed with the Secretary of State. When a petition containing the signatures of the requisite percentage of legal voters is filed, an election is held in which the voters decide whether to accept or reject the bill. The Washington Legislature enacted Engrossed Second Substitute Senate Bill (ESSB) 5688, which expanded the rights, responsibilities, and obligations accorded state-registered same-sex and senior domestic partners. Protect Marriage Washington filed Referendum 71 to challenge ESSB 5688. The referendum petition was signed by over 137,000 registered voters. Under Washington's Public Records Act, the Referendum 71 petitions are public records and may be made available for public inspection. Wash. Rev. Code § 42.56.070. Protect Marriage Washington and two John Doe plaintiffs filed this action to enjoin the Secretary of State from disclosing the names on the petitions under the Public Records Act. The plaintiffs claimed that disclosure would violate their rights of association under the First Amendment of the U.S. Constitution. The District Court granted plaintiffs' motion for a preliminary injunction.

PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL

Whether the plaintiffs were entitled to a preliminary injunction to prevent the Washington Secretary of State from disclosing the names on Referendum 71 petitions in response to requests from citizens under Washington's Public Records Act.